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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,647	11/01/2001	Soren Andersen	9117A	5696

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Milliken & Company  
P. O. Box 1927  
Spartanburg, SC 29304

EXAMINER
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GRAY, LINDA L

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/001,647	Applicant(s) ANDERSON ET AL.	
	Examiner Linda L Gray	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3-6-02, 12-2-02, 11-1-01, 6-18-03.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**Detailed Action**

**Election/Restriction**

**1.** Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 19-25**, drawn to a mat, classified in class 428, subclass 85+.
- II. **Claims 26-38**, drawn to a process of making a mat, classified in class 156, subclass 250..

**2.** The inventions are distinct, each from the other because of the following reasons:

Inventions of Group II and Group I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be cut to size before bonding.

**3.** Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

**4.** During a telephone conversation with Charlotte Wilson on August 14, 2003, a provisional election was made with traverse to prosecute the invention of Group II, claims 26-38. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

**5.** Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of

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inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

**Drawings**

6. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

**Specification**

7. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the Applicants' use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if

the required "Sequence Listing" is not submitted as an electronic document on compact disc).

**Claim Rejections - 35 USC § 112**

- 8.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 9. Claims 26-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Claims 26-38** are indefinite because boundaries of "rubber-like" (cl 26, L 2, 4) are not distinctly set forth in that it not clear what "like" encompasses.

**Claim Rejections - 35 USC § 103**

- 10.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 11. Claims 26-29 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Demott et al. (US 2001/0044249 A1).**

**Claim 26**, Applicant's admitted prior art teaches a method of manufacturing a mat including a pile surface fabric and a rubber backing material connected to the pile surface fabric. The method includes the steps of bonding the pile surface

fabric to the rubber backing material wherein the pile surface fabric has printed thereon visually distinctive areas and cutting through the pile surface fabric and backing material to form the mat.

*Applicant's admitted prior art does not teach that the pile surface fabric has elongated, visually distinctive areas of contrasting surface appearance and cutting through the surface fabric and the backing material along at least one of the areas to form the mat wherein the cut portions of the areas forms a border portion of the mat (specification).*

Demott et al. teach a method of manufacturing a plurality of mats 2 including a surface fabric 4 and a rubber backing material 6 connected to the surface fabric 4. The method includes the steps of bonding the surface fabric 4 to the rubber backing material 6 wherein the surface fabric 4 has elongated, visually distinctive areas of contrasting surface appearance 10. Then Demott et al. teach cutting through the surface fabric 4 and backing material 6 along areas 10 to form the mats 2 wherein the cut portions of the areas 10 form a border portion for each of the mats 2 (c 3, para 37, to c 5, para 71). Demott et al. teach that by making several mats in one operation, the method is efficient (c 2, para 22).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Applicant's admitted prior art that the pile surface fabric has a plurality of elongated, visually distinctive areas of contrasting surface appearance for making several mats per sheet of pile surface fabric (as shown in Demott et al. and cutting through the surface fabric and the backing material along at least one of the areas to form the plurality of mats wherein the cut portions of the areas forms a border portion of the mats because

Demott et al. teach that by making several mats in one operation, the method is efficient where making plurality of mats in Applicant's admitted prior art in one operation would then be more desirable than making each mat one by one.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

**Claims 27-29**, in Applicant's admitted prior art in view of Demott et al. the pile surface fabric has the area forming a grid (claim 27), the pile surface fabric and backing material are cut along two longitudinal and two transverse areas to form a substantially rectangular mat (claim 28), and the bonding step is achieved by vulcanization.

***Claims 34-38**, Applicant's admitted prior art teaches forming the area by printing and not by the claimed carving methods.*

However, the claimed carving methods are conventional in the art and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Applicant's admitted prior art in view of Demott et al. providing the areas by the claimed carving instead of printing because such is a conventional alternative and it obvious to replace one boarder formation method with another art recognized alternative border formation method.

**Allowable Subject Matter**

**12. Claims 30-33 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.**

**13.** The following is a statement of reasons for the indication of allowable subject matter:

**claim 30**, the prior art of record does not teach the step of using a visual scanning means to scan the pile surface fabric and identify the position of the areas in that Demott et al. teach cutting is performed using a press having predetermined structure fitting the structure of the combined fabric and backing to be cut, and

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**claim 31**, the prior art of record does not teach the step of using a mechanical guide sensor to identify the position of the areas, where the areas are of a distinctive height, by physically sensing distinction in height.


**14.** As allowable subject matter has been indicated, Applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with, 37 CFR 1.111(b) and MPEP § 707.07(a).


**Conclusion**

**15.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached at (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg   
March 15, 2004

  
LINDA GRAY  
PRIMARY EXAMINER